

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventors: Brian Craig Lee et al. **Examiner:** Yewebdar T. Tadesse
Application No: 10/760,078 **Group Art Unit:** 1734
Filing Date: January 15, 2004 **Confirmation No:** 1899
Title: Fluid Ejection Cartridge And System For Dispensing A Bioactive
Substance

**COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, VA 22313-1450**

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to Examiner's Office Communication dated September 26, 2006

Applicants respond as follows: Examiner has identified four distinct inventions:

- I. Claims 1 and 6-10 drawn to a fluid ejection cartridge, classified in class 118, subclass 300.
- II. Claims 11-19 drawn to a fluid dispensing system, classified in class 118, subclass 713.
- III Claims 20-21 and 24-30, drawn to a fluid dispensing system classified in class 118 subclass 113.
- IV Claims 31-32, 34, 37-44 drawn to a fluid dispensing system classified in class 118, subclass 695.

Applicants affirm that the above four groups identified by the Examiner are patentably distinct. However, Applicants believe that the restriction requirement is improper for a couple of reasons and traverse this restriction requirement. First, Applicants note Examiner's restriction requirement has not established that an undue burden would be required if the restriction requirement either was not issued or if issued with fewer inventions. More particularly, MPEP §803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, no undue burden has been established if each of the claims were examined together. In particular Examiner has neither indicated nor has given any arguments as to why prosecution of claims to groups II-IV, or claims to III and IV presents any serious burden as required by MPEP §803.

Second Applicants believe that Examiner has classified various claims in subclasses which Applicants believe are clearly incorrect and provide further evidence that this requirement for restriction is improper. For example, subclass 113 is defined as "[w]ith reciprocatation along axis of rotation: This subclass is indented under subclass 110. Coating apparatus in which the rotary member has an additional reversible or vibratory motion along the axis of rotation," whereas subclass 713 is defined as "[w]ith means for visual observation: This subclass is indented under subclass 712. Apparatus wherein a means is provided to facilitate the visual examination of (a) the coating apparatus, (b) the work, or (c) the material applied by an operator." Applicants do not see any such requirement found in the elements/limitations of claims 20-21 and 24-30 which are not also found in the elements/limitations of claims 11-18 which clearly places claims 20-21 and 24-30 in subclass 113 and claims 11-18 in subclass 713. Applicants note that dependent claim 19 may be classified in subclass 713 but the mere fact that claim 19 may be so classified does not warrant improperly classifying claims 11-18. If Examiner continues to maintain that this restriction requirement is proper, Applicants request that Examiner provide some reasoned explanation beyond the simple statements that 1st and 2nd ejectors and controllers change the classification since neither class definition relies on those elements,.

Likewise subclass 695 is defined as "[i]nterfacing control of plural operations: This subclass is indented under the class definition. Apparatus wherein a plurality of independently driven and concurrently moving members operate on the work to be coated and means are provided to synchronize the movement for these members." For claims 31-32, 34, 37-39, and 43-44 Applicants do not see any such requirement found in the elements/limitations of these claims to warrant the classification in subclass 695. Applicants note that dependent claims 40-42 may be classified in subclass 695 but

Applicants believe that does not warrant improperly classifying claims 31-32, 34, 37-39, and 43-44 in subclass 695. Applicants respectfully request that Examiner reconsider the current restriction and withdraw this restriction requirement.

Thus, Applicants hereby provisionally elect with traverse Group I covering claims 1 and 6-10 drawn to a fluid ejection cartridge, classified in class 118, subclass 300. Applicants assume for purposes of this response that Examiner has made a complete requirement for restriction in accordance with MPEP §§815 and 817. If Examiner has not made a complete requirement then Applicants respectfully request that Examiner withdraw this restriction requirement and provide a complete restriction requirement so that Applicants can properly assess Examiner's assertions. In addition, Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional, continuation, and/or continuation-in-part applications that cover the non-elected claims. Applicants also note that upon allowance of an independent claim, Applicants will be entitled to consideration of all dependent claims that depend therefrom.

Information Disclosure Statement

Applicants respectfully request that a copy of the 1449 Form be returned with the next official communication listing all references that were submitted with the Information Disclosure Statements filed on January 15, 2004 and July 21, 2006 and marked as being considered and initialed by the Examiner.

Hewlett-Packard Company
1000 NE Circle Blvd. m/s 422B
Corvallis, OR 97330
(541) 715-1694

Respectfully submitted,
Brian Craig Lee et al.

By: /Donald J. Coulman/
Donald J. Coulman
Reg. No. 50,406
Attorney for Applicant

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